

March 15, 2004

Hilario Candela
President
DMJM Spillis Candela
800 Douglas Entrance
North Tower
2nd Floor
Coral Gables, FL 33134

RE: REQUEST FOR ADVISORY OPINION 04-26

Dear Mr. Candela:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant (PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be

responsible for short and long-range transit planning, facilities planning, feasibility studies, oversight of construction, engineering and inspection consultants and design criteria and standards. Transit will hire additional firms to do the actual design and construction inspection work but they will work under the direction of the Program Management Consultant team. As noted in the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as county staff in the areas for which the Consultant will provide staff and technical assistance. The contract should be awarded in the summer of 2004.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27th Avenue and 62nd Street) along N.W. 27th Avenue to 215th Street.
- The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Baylink- A corridor between downtown Miami and Miami Beach
- Kendall Corridor- A corridor with east-west and north-south elements

Preliminary studies and design work has already been conducted on these corridors. As noted in more detail below, Parsons Brinckerhoff has taken part in these studies on behalf of one or more of the funding agencies including the Metropolitan Planning Organization, the Florida Department of

Transportation and the Miami-Dade Expressway Authority. In cases where responsibilities may overlap, Transit Department officials have stated that County staff will assume full management responsibilities.

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does not analyze potential conflicts with contracts with other agencies.

The Ethics Commission found that DMJM Spillis may serve as Program Management Consultant subject to the limitations contained herein. Since the information provided by your firm concerned contracts held by DMJM Harris, the analysis relates to DMJM Harris' contracts. However, the conflicts would apply if DMJM Spillis were awarded the contract because the firms are affiliated. The Ethics Commission considered each contract individually.

- DMJM Harris is currently preparing a New Starts Audit and Quick Start Plan for Transit. The scope of services requires the firm to review current environmental documents for the East-West and North Corridors and provide recommendations for further action. The firm will also identify work that will have to be updated from prior studies. DMJM will

also provide strategies to improve Transit's New Starts current ratings and develop a credible financial planning strategy for consideration by the Federal Transit Agency.

The New Starts Audit and Quick Start Plan should be completed prior to commencement of work by the Program Management Consultant. The firm may also do any subsequent work on a New Starts project, under the PMC contract, because continuation of work is not a conflict. However, DMJM Harris may not do further work on the New Starts Audit and Quick Start Plan under this agreement while DMJM Spillis serves on the Program Management Consultant team.

- DMJM Harris also conducted a Major Investment Study (MIS) for the Kendall Corridor. Under a miscellaneous professional services agreement with the Miami-Dade Transit Agency, DMJM Harris conducted studies related to various projects that are a part of the People's Transportation Plan.

These agreements should not constitute a conflict. The Kendall Corridor study is completed. The miscellaneous agreement should not constitute a conflict if Transit does not assign any work orders related to the People's Transportation Plan.

Therefore, DMJM Spillis may serve as Program Management Consultant for the People's Transportation Plan subject to the limitations contained herein.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director

cc: Luisa Millan Donovan, CICC